

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302
(562) 590-5071



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Staff Report: 8/20/01
Hearing Date: 9/11-14/01
Commission Action:

STAFF REPORT: MATERIAL AMENDMENT

APPLICATION NUMBER: 5-85-224-A1

APPLICANT: City of Santa Monica

PROJECT LOCATION: 1431 Second Street, Santa Monica

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Modification of five-story, 356 space, municipal parking structure to include the replacement of 17 parking spaces with 7,500 square feet gross retail space at the ground floor street frontage and the restriping of the structure to provide compact, motorcycle and handicapped parking spaces, adding 18 parking spaces for a total of 374 spaces.

DESCRIPTION OF PROPOSED FIRST AMENDMENT: After the fact permit request to allow the conversion of 5,818 square feet of commercial space to education facility, and revise Special Condition no. 1 of the original permit to include "educational facility" as an allowable use of the commercial space.

SUBSTANTIVE FILE DOCUMENTS: City of Santa Monica certified, with suggested modifications, LUP

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission determine that the proposed development with the proposed amendment, subject to the conditions to allow Emeritus College as a permitted use and that any future change to the number of classes or hours during the weekend will require review to determine if an amendment is necessary, is consistent with the requirements of the Coastal Act.

Procedural Note: The Commission's regulations provide for referral of permit amendment requests to the Commission if:

- 1) The Executive Director determines that the proposed amendment is a material change,
- 2) Objection is made to the Executive Director's determination of immateriality, or,
- 3) the proposed amendment affects conditions required for the purpose of protecting a coastal resource or coastal access.

In this case, the Executive Director has determined that the proposed amendment is a material change to the project as originally described. If the applicant or objector so requests, the Commission shall make an independent determination as to whether the proposed amendment is material. 14 Cal. Admin. Code 13166.

STAFF RECOMMENDATION:

- I. Staff recommends that the Commission make the following motion and adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit #5-85-224-A1 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit amendment for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONSConditions of Original Permit

The development is subject to the following Special Conditions:

1. The applicant shall submit a written agreement, the form and content subject to the review and approval of the Executive Director, which restricts the use of the commercial space created by this permit to visitor-serving retail use
2. All future development of the six public parking structures within the downtown Parking and Business Improvement Area shall require a Coastal Development Permit.

Conditions Changed by Amendment

Condition No. 1 of the original Permit shall be amended as follows (changes are shown as strikeout and underline):

1. The applicant shall submit a written agreement, the form and content subject to the review and approval of the Executive Director, which restricts the use of the 7,500 gross square foot commercial space created by this permit to visitor-serving retail use and/or to use as an Emeritus College.

Add the Following New Condition

3. Future changes

Any future proposed changes to the number of classes, or hours classes are offered during the weekend, shall be reviewed and approved by the Executive Director to determine if an amendment to this permit will be required.

Note: Unless specifically altered by this amendment, all conditions imposed on the previously approved permit shall remain in effect (See Exhibit no. 4)

IV. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. Project Description and Location

The applicant, the City of Santa Monica requests an after the fact permit request to allow the conversion of 5,818 square feet of commercial space to education facility, and revise Special Condition no. 1 of the original permit to include "education facility" as an allowable use of the commercial space.

The existing commercial space is located on the ground floor of a multi-level municipal parking structure (Parking Structure No. 2), located at 1431 Second Street, between Broadway and Arizona Avenue, in the City of Santa Monica.

The City's proposed use would be an educational facility known as "Emeritus College". Emeritus College is associated with the Santa Monica Community College. Emeritus College provides instructional programs for older adults. Although the programs are structured towards older adults, adults of all ages are welcomed. Classes are offered Monday through Saturday, with classes running approximately 1 to 2 ½ hours. The 5,818 square feet provides five four classrooms, an exercise room, display/gallery space and office space.

B. History

In 1985, the Commission approved a permit to allow the City of Santa Monica to modify a five-story, 356 space, municipal parking structure. The modifications included the replacement of 17 parking spaces with 7,500 gross square feet of retail space along the ground floor street frontage, restripping of the structure to provide compact spaces, motorcycle and handicapped spaces, and the addition of 18 parking spaces to increase the total number of parking spaces to 374 spaces.

The parking structure is located on Second Street, between Broadway and Santa Monica Boulevard, within the downtown Third Street Mall. The parking structure is one of six municipal parking structures located within the downtown Parking Assessment District.

In approving the permit the Commission found that the parking supply, within the downtown parking district, could become overburdened by long-term office parking demand, thereby displacing parking for higher priority visitor-serving retail use and coastal recreational users. Therefore, the Commission required a special condition to restrict the use of the commercial spaces to visitor-serving retail use.

In 1994, Emeritus College moved into approximately 5,818 square feet of the 7,500 gross square feet of the approved commercial area. An existing beauty saloon occupies 1,187 square feet adjacent to the college. Commission staff recently became aware of the conversion when the college contacted staff to discuss permit requirements for proposed interior remodeling. Once the college became aware of the use restrictions placed on the 1985 coastal permit, the City was contacted, and the City worked diligently to submit a permit application to resolve any issues.

C. Public Access/Parking

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by providing adequate parking facilities.

The proposed project is located within the City of Santa Monica's downtown Parking Assessment District. The boundaries of the Parking District are Fourth Court, Broadway, First Court, and Wilshire Boulevard. The Parking District was formed to levy an additional

businesses license tax and an annual ad valorem assessment to development within the area to pay for and to provide parking to all business within its boundaries. Parking within the Parking District is provided in six parking structures located within a four-block area. A total of approximately 3,128 parking spaces are provided by the six structures. Of this total, 2,480 spaces are available to the public (Parking Analysis Update for the Third Street Promenade/Bayside District, October 1993, prepared by Meyer, Mohaddes Associates). Businesses located within the boundaries of the Parking District are not required to provide on-site parking.

Although projects within the Parking District are not required to provide parking, the parking supply within the district must be adequate to support the demand generated by existing and new developments that do not provide their own parking or are deficient in their supply of on-site parking. Individual development impacts within the District is considered cumulative since downtown visitors will generally move from one parking structure to the next depending on the availability within each structure. Therefore, parking demand and supply is analyzed based on the entire parking assessment district.

According to the 1993 parking demand analysis for the Third Street Promenade, the current day (between 9:00 AM and 6:00 PM) peak utilization rate for all six parking structures is approximately 1,453 vehicles (56% utilization rate) and occurs between 2:00 to 3:00 P.M during the weekday. During this time the demand for public spaces during the weekday is approximately 1,587 spaces (64% utilization rate). During the weekend the peak utilization is 1,388 spaces (56% utilization rate). Therefore, according to this study there is a surplus of approximately 893 spaces at peak times on the weekdays and 1,388 spaces at peak times on weekends.

Subsequent to the 1993 update, a more recent parking study, *City of Santa Monica downtown Parking management Program* report, prepared by KAKU Associates, was prepared for the City in April 2000. According to the report, weekday peak utilization for the public spaces within the district is approximately 75%, and occurs between 2:00 p.m. and 4:00 p.m. Weekend peak utilization is approximately 88% and occurs between 9:00 p.m. and 10 p.m. on Saturdays. During the peak weekend beach use period, which occurs between 2:00 p.m. and 3:00 p.m., the peak parking utilization rate is approximately 72%. Therefore, approximately 694 parking spaces within the district's parking structures are available for public use during the peak weekend beach use period.

Based on the Commission's parking standard of 1 space per 3 students, the proposed 5,818 square foot educational facility would generate a parking demand of approximately 47 parking spaces. As retail space, there would be a demand of 26 parking spaces. Therefore, an educational facility would generate a demand of 21 additional parking spaces compared to retail use. Based on the City's parking studies, there is an adequate supply of parking within the district to support the increased demand that would be generated by the educational facility. However, in coastal development permit no. 5-85-224, the

Commission was concerned with the short-term and long-term parking needs of the district. In permit 5-85-224 the Commission found:

Office development has a greater impact on parking than retail use. Office development, particularly professional offices where there are few if any, patrons and the parking demand is from office tenants and employees tie up parking spaces for an 8- to 10-hour period. On the contrary there are more customers than employees of a retail development and the parking turnover rate allows several vehicles to utilize the same space during the same 8- to 10-hour period.

If an office type use was permitted the parking dynamics would be different than the demand created by retail use. Office use would generate more long-term parking, where parking may be occupied all day by employees. With retail use parking would be occupied for shorter periods and will have a higher turn-over rate as compared to office use. Therefore, with retail use there would be a greater availability of spaces throughout the day for use by retail patrons and beach and recreational users.

The City argues that the proposed use is not an office use and, as currently operated, does not impose a long-term parking burden. In support of the City's position, the college recently conducted a survey. The survey indicated that 76% of the respondents drove and 23% used public transportation, walked or biked. Of the respondents that drove, 84% parked fewer than 3 hours, and 15% parked fewer than five hours. Based on this information staff concurs with the City in that the parking generated by the proposed institutional use will have a higher turn-over rate than office use.

Furthermore, since 1985, through the construction of additional parking levels atop existing parking structures, the City has increased the supply of parking spaces within the parking assessment district from 2,749 spaces to approximately 3,128. Through the addition and reallocation of spaces (short-term, permit spaces and leased spaces), the number of spaces available for short-term public parking has increased from 1,354 to 2,480 spaces. Therefore, since the Commission approved the original permit in 1985, the City has increased the number of spaces available for short-term parking by 1,126 spaces.

Moreover, the majority of the classes are held during the week which is a non-peak beach use period and will not adversely impact beach and recreational parking. The classes offered on Saturday are limited to approximately 10 classes between 8 a.m. and 3 p.m. With the limited number of weekend classes, the short turn-over rate, and the available supply of parking during this time, there will not be a significant impact on short-term parking within the parking district or surrounding area. However, the Emeritus College is unique in terms of type of educational facility and students that attend. The majority of students attending this educational facility are over 60 years old and attend only one to two classes per day with limited classes on Saturday. Other educational facilities may have a different student make up with students attending more classes per day and parking longer.

Other educational facilities may have a greater impact on the availability of parking, especially on the weekend, and significantly reduce the number of short-term spaces that would be available for visitor-serving uses and beach and recreational use. Allowing the City to amend the permit to allow “educational facility” as a permitted use would allow all types of institutional uses. Such uses could adversely impact the availability of short-term parking. In discussions with the City, it is not the City’s intent on allowing other educational facilities within this structure, but only to allow the proposed Emeritus College, as an “educational facility”. Therefore, to ensure that Emeritus College, because of its unique operation, is the only educational facility permitted, special condition no. 1 is amended to allow “Emeritus College” as an educational facility. Furthermore, any change to the number of classes or hours may adversely impact public parking. Therefore, an added condition is necessary to ensure that any change to the number or hours classes are offered during the weekend will require review by the Executive Director to determine if an amendment to this permit will be required. The Commission finds, that only as condition will the proposed amendment be consistent with Sections 30211 and 30256 of the Coastal Act.

D. Local Coastal Program

(a) Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3.

In August 1992, the Commission certified, with suggested modifications, the land use plan portion of the City of Santa Monica's Local Coastal Program, excluding the area west of Ocean Avenue and Neilson way (Beach Overlay District), and the Santa Monica Pier. On September 15, 1992, the City of Santa Monica accepted the LUP with suggested modifications.

The certified Land Use Plan designated the proposed site as Downtown Commercial. Under the City's current zoning the proposed new uses are permitted uses and consistent with Land Use Plan designation. As conditioned, the project will not adversely impact coastal resources and beach access. The Commission, therefore, finds that the proposed project will not be consistent with the Chapter 3 policies of the Coastal Act and will prejudice the ability of the City to prepare a Local Coastal Program implementation program consistent with the policies of Chapter 3 of the Coastal Act as required by Section 30604(a).

E. Unpermitted Development

In 1994 the City permitted the conversion of a portion of the commercial space to an educational facility. Coastal development permit no. 5-85-224 restricted use of the commercial space to visitor-serving retail use. There are no records of permits issued for converting the commercial space to an educational facility. Although unpermitted development has taken place on the property prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Action by the Commission on the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a Coastal permit.

F. California Environmental Quality Act

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As proposed, there are no feasible alternatives or mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the proposed project is found consistent with CEQA and the policies of the Coastal Act.